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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BUTTE DIVISION

UNITED STATES OF AMERICA,)	Case No. CR 16-23-BU-SPW
)	
Plaintiff,)	
)	RESPONSE TO POINT BRIEF
vs.)	RE: HASHISH
)	
MICHAEL JAMES MASON,)	
)	
Defendant.)	
_____)	

COMES NOW Defendant, Michael James Mason, by and through his counsel of record, ASHLEY A. HARADA, and responds to the government's point brief on hashish.

The government makes reference to the case of *State v. Pirello*, wherein the Montana Supreme Court held that hashish does not fall within the Montana Marijuana Act's "useable marijuana" exception to the Controlled Substances Act.

365 Mont. 399, 403 (2012). The case of *State v. Pirello* is no longer controlling on this issue. *Pirello* was decided based upon the status of the Montana Marijuana Act in 2010 (at the time of the offense committed by Pirello). The Montana Marijuana Act has changed significantly since 2010 and the statutes relied upon by the Montana Supreme Court in deciding *Pirello* have been superseded in their entirety.

The government's point brief is further demonstration as to the ever-changing status of the Montana Marijuana Act. Indeed, compliance with state law may be something more appropriately brought before a state court by certification or declaratory action.

If this Court determines it is appropriate to hear evidence on the issue of compliance, it will be crucial for the Court to hear from the appropriate regulatory agency as to the status of the Montana Medical Marijuana Act at the time of the alleged offense in order to make an accurate determination. As asserted in previous briefs, Defendant takes the position that the burden is on the government to prove lack of compliance.

DATED this 16th day of February, 2017.

/s/ Ashley Harada

Ashley Harada
Attorney for Defendant

CERTIFICATE OF SERVICE - L.R. 5.2(b)

I hereby certify that on February 16, 2017, a copy of the foregoing document was served on the following persons by the following means:

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1. CLERK, U.S. DISTRICT COURT

2. Brendan McCarthy
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/s/ Ashley Harada

Ashley Harada